

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

ASHLEY H. THOMPSON, mother,
J.T, minor child,
and RONALD C. THOMPSON,
husband,

Plaintiffs,

v.

RUBEN GARZA,

Defendants.

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* CIVIL ACTION NO. 2:06-cv-420-WHA

ORDER ON PRETRIAL HEARING

A pretrial hearing was held in this case on May 30, 2007, wherein the following proceedings were held and actions taken:

1. PARTIES AND TRIAL COUNSEL:

Andy Nelms
Jay Lewis
Attorneys for Plaintiff
Law Offices of Jay Lewis, LLC
P. O. Box 5059
Montgomery, AL 36104

Virginia R. Lucci, Attorney for Plaintiff
516 S. Perry Street
Montgomery, AL 36104

S. Anthony Higgins and Jay S. Tuley, Attorneys for Defendant
Nix Holtsford Gilliland Higgins & Hitson, P.C.
P.O. Box 4128
Montgomery, AL 36106

COUNSEL APPEARING AT PRETRIAL HEARING: Same as trial counsel.

2. JURISDICTION AND VENUE:

Jurisdiction is based on diversity of citizenship pursuant to 28 U.S.C. § 1332. Further, venue is proper in this case because the accident at issue occurred in Autauga County, a county within the Northern Division of the Middle District of Alabama.

3. PLEADINGS: The following pleadings and amendments were allowed:

1. The Complaint
2. Answer of Defendants
3. Geo-Marine's Motion for Summary Judgment and Supporting Brief
4. Plaintiff's Answer to Geo-Marine's Motion for Summary Judgment
5. Ruben Garza's Motion for Partial Summary Judgment
6. Plaintiff's Response to Ruben Garza's Motion for Partial Summary Judgment
7. Defendant's Witness List
8. Defendant's Exhibit List

4. CONTENTIONS OF THE PARTIES:

(a) The Plaintiff(s)

On August 18, 2005, the Plaintiff, Ashley Thompson, was legally operating her vehicle along U.S. Highway 31 in Autauga County, Alabama. Her son J.T. was a passenger in the vehicle. J.T. was properly restrained pursuant to Alabama law. The Defendant was operating his vehicle on the exit ramp of Interstate 65 at U.S. Highway 31. The Defendant did, in violation of Alabama law, fail to yield the right of way to Ashley Thompson. The Defendant drove his vehicle in front of the on-coming vehicle of Ashley Thompson. The Defendant entered the roadway in such a way as to invade Thompson's right of way. The unlawful actions of the Defendant in failing to yield the right of way were so immediate in time and place that Ashley Thompson could not reasonably stop resulting in a collision of the two vehicles. As a direct result of the collision, J.T. suffered an injury to his face and mouth. J.T. suffered emotional trauma. As a direct result of the collision, Ashley Thompson suffered injury to her shoulder, back, neck and legs. Ashley Thompson also suffered severe emotional trauma. Ashley Thompson's emotional trauma continues to this day. As a direct result of the collision, Ashley Thompson has suffered permanent and/or long-term damage to her back and shoulder. Ashley Thompson's ongoing injuries cause limitations in her ability to enjoy everyday life, limit her employment opportunities and cause her ongoing pain and suffering. The Defendant was negligent in that he owed a duty of care to the Plaintiffs. The Defendant failed in his duty to the Plaintiffs in that, in violation of Alabama law, he failed to yield the right of way. As a direct proximate result of the Defendant's actions, the Plaintiffs were caused to

suffer the injury, emotional distress and economic loss. The Plaintiffs are entitled to recover compensatory and punitive damages.

(b) The Defendant(s)

Ruben Garza denies that he is guilty of negligence in this case. Mr. Garza also denies that the injuries and damages complained of by the Plaintiffs were proximately caused by the automobile accident at issue in this case. Mr. Garza contests all claims of injury and damages arising from this accident and demands strict proof thereof. Finally, Mr. Garza denies liability for the loss of consortium claim asserted by Ronald Thompson in this matter.

5. STIPULATIONS BY AND BETWEEN THE PARTIES:

- a. This case involves an automobile accident which occurred on August 18, 2005.
- b. The accident occurred at the intersection of U.S. Highway 31 and the exit ramp of Exit 186 north on Interstate 65 in Autauga County, Alabama.
- c. The parties stipulate that jurisdiction and venue is proper in this case.

It is ORDERED that:

1. The jury selection and trial of this cause, which is to last two (2) days, are set for July 17, 2007, at 10:00 a.m., at the United States Courthouse in Montgomery, Alabama.

2. A trial docket will be mailed to counsel for each party approximately four weeks prior to the start of the trial term;

3. Each party shall have available at the time of trial, for use by the court (the judge, the courtroom deputy clerk, and the law clerk), three copies of the exhibit list and a sufficient number of copies of each photostatically reproducible exhibit for opposing counsel, the courtroom deputy clerk, the law clerk, and the judge to each have a set of the exhibits;

4. **IF REQUIRED:** Trial briefs are required to be filed by July 10, 2007.

5. All deadlines not otherwise affected by this order will remain as set forth in the Uniform Scheduling Order (Doc. #9) entered by the court on June 29, 2006, as modified by Doc. #19 entered by the Court on October 26, 2006.

6. All understandings, agreements, deadlines, and stipulations contained in this

Pretrial Order shall be binding on all parties unless this Order be hereafter modified by Order of the Court.

DONE this 30th day of May, 2007.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
Senior U.S. District Judge